

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

INTERNATIONAL NEWS, INC.,

Plaintiff,

v.

10 DEEP CLOTHING, INC.,

Defendant.

CASE NO. C18-0302-JCC

ORDER

This matter comes before the Court on Plaintiff International News Inc.’s motion to compel Defendant 10 Deep Clothing Inc. to disclose documents relating to Defendant’s tax returns, financial documents, and profits and costs relating to web sales (Dkt. No. 70). Having thoroughly considered the parties’ briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS in part and DENIES in part the motion for the reasons explained herein.

**I. BACKGROUND**

The Court set forth the underlying facts of this case in a previous order and will not repeat them here. (*See* Dkt. No. 46.) Plaintiff moves for an order compelling Defendant to disclose its financial documents, documents associated with its web sales, and tax returns from 2007 to 2017 in response to Plaintiff’s discovery requests. (*See generally* Dkt. No. 70.) Plaintiff asserts that the documents it seeks are relevant to its claims for unjust enrichment and

1 promissory estoppel claims. (Dkt. No. 83 at 3–4.) Relying on the testimony of Defendant’s  
2 accountant, Cory Vernioia, Plaintiff states that these documents will definitively show the total  
3 amount owed to Plaintiff and at issue in this litigation. (Dkt. No. 70 at 2.) On January 30, 2020,  
4 the parties met via telephonic conferences and were unable to resolve their dispute. (*Id.* at 5.)  
5 Plaintiff subsequently filed the instant motion. (*Id.* at 1.)

## 6 **II. DISCUSSION**

7 In general, “[p]arties may obtain discovery regarding any nonprivileged matter that is  
8 relevant to any party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ.  
9 P. 26(b)(1). In addressing the proportionality of discovery, the court considers “the importance of  
10 the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant  
11 information, the parties’ resources, the importance of the discovery in resolving the issues, and  
12 whether the burden or expense of the proposed discovery outweighs its likely benefit.” *Survivor*  
13 *Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005). If requested discovery is not  
14 answered, the requesting party may move for an order compelling such discovery. Fed. R. Civ.  
15 P. 37(a)(1). The court has broad discretion to decide whether to compel disclosure of discovery.  
16 *Phillips ex rel. Estates of Byrd v. General Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002).  
17 The Ninth Circuit has held that there are “liberal discovery principles” under the Federal Rules  
18 and that defendants thus carry a “heavy burden of showing” why a request for discovery should  
19 be denied. *Blankenship v. Hearst Corp.*, 519 F. 2d 418, 429 (9th Cir. 1975).

20 Relevant information for purposes of discovery is information “reasonably calculated to  
21 lead to the discovery of admissible evidence.” *Survivor Media, Inc.*, 406 F.3d at 635 (quoting  
22 *Brown Bag Software v. Symantec Corp.*, 960 F.2d 1465, 1470 (9th Cir. 1992)). This is “an  
23 intentionally broad mandate.” *Brown Bag Software*, 960 F.2d at 1470. Accordingly, district  
24 courts possess broad discretion “in determining relevancy for discovery purposes.” *Survivor*  
25 *Media, Inc.*, 406 F.3d at 635.

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1           **A.      Financial Documents**

2           Plaintiff moves to compel disclosure of Defendant's financial documents from 2007 to  
3 2017. The relevance of Defendant's financial documents to Plaintiff's claims is clear. Plaintiff's  
4 claims for unjust enrichment and promissory estoppel are based on Defendant's alleged violation  
5 of its financial obligations under various agreements and the parties' relationship spanning from  
6 2007 to 2017. As such, financial documents allegedly illustrating this relationship are central to  
7 this case and thus meet the low threshold of relevance.

8           Plaintiff acknowledges that Defendant has provided financial statements from 2011 to  
9 2013 but argues that Defendant has failed to produce the corresponding documents from 2007 to  
10 2010 and from 2014 to 2017. (Dkt. No. 70 at 3–4.) In response, Defendant asserts that it no  
11 longer possesses financial documents for 2007 to 2010 but states that it will send Plaintiff the  
12 requested financial documents for 2014 to 2017. (*See* Dkt. Nos. 78 at 9, 80 at 2.) The Court finds  
13 the Defendant has adequately disclosed its financial documents for the years 2011 to 2013 and  
14 that the Defendant cannot disclose the documents from 2007 to 2010.<sup>1</sup> Thus, Plaintiff's motion  
15 to compel is GRANTED as to Defendant's financial documents for the years 2014 to 2017 and  
16 DENIED as to Defendant's financial documents for the years 2007 to 2013.

17           **B.      Web Sale Documents**

18           Defendants asserts that documents relating to the “costs, payments and profits associated  
19 with its web sales” are “wholly irrelevant to the present dispute.” (Dkt. No. 78 at 9.) But  
20 Defendant's records pertaining to its web sales are relevant to Plaintiff's claims and therefore the  
21 documents must be disclosed in response to Plaintiff's discovery requests.

22           Plaintiff states that it seeks all documents relating to Defendant's web sales during the  
23 parties' ten-year relationship. (Dkt. No. 83 at 7.) It is uncontested that Defendant “ran a web  
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25 <sup>1</sup> Plaintiff briefly requests copies of Defendant's financial documents for 2011 to 2013 with  
26 Defendant's notes and comments on them, but Defendant has established that no such copies  
exist. (Dkt. No. 78 at 9.)

1 business, and that [Plaintiff] supplied the product which was sold.” (Dkt. No. 70 at 4.) The costs  
2 and profits associated with Defendant’s business are relevant to Plaintiff’s unjust enrichment  
3 claim because they show how Defendant’s funds are received and dispersed. Given that  
4 discovery is intentionally a broad mandate for the purpose of uncovering sources of information  
5 that can lead to admissible evidence, Plaintiff has met its burden of showing the relevance of the  
6 sought documents and Defendant has not met its burden of showing that such information is not  
7 relevant. Therefore, Plaintiff’s motion to compel is GRANTED on this ground.

8 **C. Tax Returns**

9 In general, “[t]ax returns do not enjoy an absolute privilege from discovery.” *Premium*  
10 *Service Corp. v. Sperry and Hutchinson Co.*, 511 F.2d 225, 229 (9th Cir. 1975). Specifically,  
11 “tax returns held by the government are confidential under federal law, but copies retained by the  
12 taxpayer are subject to discovery.” *St. Regis Paper Co. v. U.S.*, 368 U.S. 208, 218–19 (1961).  
13 However, the Ninth Circuit recognizes that unnecessary public disclosure of tax returns must be  
14 limited to “encourage taxpayers to file complete and accurate returns.” *Aliotti v. Vessel SENORA*,  
15 217 F.R.D. 496, 497 (N.D. Cal. 2003) (quoting *Premium Service Corp.*, 511 F.2d at 229). In the  
16 Western District of Washington, courts have applied a two-part test to determine if a party’s tax  
17 returns should be disclosed: “the Court may only order the production of [a party’s] tax returns if  
18 they are relevant and when there is a compelling need for them because the information sought is  
19 not otherwise available.” *Id.*; see, e.g., *Alaskan Anvil, LLC v. Majestik Fisheries*, Case No. C13-  
20 5702 BJR, Dkt. No. 25 at 2 (W.D. Wash. 2014) (denying plaintiff’s request for production of the  
21 defendant’s tax returns because the plaintiff’s claims did not depend on information contained in  
22 the tax returns and plaintiff did not demonstrate a “compelling need” for the information in the  
23 returns).

24 Plaintiff seeks to compel Defendant to provide its tax returns for the years 2007 to 2017.  
25 In response, Defendant states that its tax returns are not relevant to the current litigation, and that  
26 Plaintiff can glean the information sought from the tax returns from other documents in the

1 record. (Dkt. No. 78 at 8).

2 In this case, Defendant's tax returns are relevant to Plaintiff's claims. Plaintiff seeks the  
3 returns to support its claims of unjust enrichment and promissory estoppel, as well as its breach  
4 of contract claim should it not succeed on its pending motion for partial summary judgment.  
5 (Dkt. No. 83 at 3–4.) As many of the cases cited by Defendant reflect, taxes are an opportunity  
6 for the taxpayer to honestly and truthfully reflect their financial situation. *See e.g., Premium*  
7 *Service Corp.*, 511 F.2d at 299. The tax returns can provide evidence as to whether Defendant  
8 viewed the balance as a liability or negative asset or not, which bears directly on Plaintiff's  
9 unjust enrichment claim. (*Id.* at 3.) Therefore, the tax returns are relevant. *See Premium Service*  
10 *Corp.*, 511 F.2d at 299; *Alaskan Anvil, LLC*, Case No. C13-5702 BJR, Dkt. No. 25 at 2.

11 As the tax returns are relevant to Plaintiff's claims, the Court now examines whether  
12 Plaintiff has established a compelling need for Defendant's tax returns. Defendant claims that its  
13 other records showing its debt to Plaintiff carry "no substantive meaning." (Dkt. No. 83 at 4.)  
14 But Defendant's accountant has testified that the Defendant's tax returns should definitively  
15 show this debt as a negative asset. (*Id.* at 4–5.) Given Defendant's minimization of its own  
16 records and the testimony of Defendant's accountant, Defendant's tax returns are the most viable  
17 evidence that allow Plaintiff to support its claims. Thus, Plaintiff has clearly identified a  
18 compelling need for the returns since the set of facts that Plaintiff hopes to prove from the  
19 information contained therein cannot be derived from another source. *See Premium Service*  
20 *Corp.*, 511 F.2d at 299; *Alaskan Anvil, LLC*, Case No. C13-5702 BJR, Dkt. No. 25 at 2.  
21 Therefore, Plaintiff's motion to compel is GRANTED on this ground.

### 22 **III. CONCLUSION**

23 For the foregoing reasons, Plaintiff's motion to compel (Dkt. No. 70) is GRANTED in  
24 part and DENIED in part as follows:

- 25 1. Plaintiff's motion to compel is GRANTED as to Defendant's tax returns for 2007 to  
26 2017, documents pertaining to the profits and costs of Defendant's web sales for 2007 to

2017, and Defendant's other financial documents for 2014 to 2017.

2. Plaintiff's motion to compel is DENIED as to Defendant's financial documents from 2007 to 2013.

3. Plaintiff's request to redepose Defendant's CEO Scott Sasso (Dkt. No. 70 at 6) is DENIED at this time.

DATED this 16th day of April.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour  
UNITED STATES DISTRICT JUDGE